



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

JAN 31 2007

The Honorable Billy K. Cannaday
Superintendent of Public Instruction
Virginia Department of Education
P.O. Box 2120
Richmond, Virginia 23218

Dear Superintendent Cannaday:

I am writing in response to Virginia's December 18, 2006 and January 9 and 27, 2007 requests to amend its State accountability plan under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB). This letter is intended to provide approval of those changes that are aligned with NCLB as well as feedback on those changes that are not aligned with the statute and regulations and those that require additional information. A summary of the amendments is enclosed with this letter.

As you know, any further requests to amend the Virginia accountability plan must be submitted to the Department for review and approval as required by section 1111(f)(2) of Title I. Please note that approval of amendments to Virginia's accountability plan does not constitute approval of the State's standards and assessment system.

Please also be aware that approval of Virginia's accountability plan for Title I, including the amendments approved through this letter, does not indicate that the plan complies with Federal civil rights requirements, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and requirements under the Individuals with Disabilities Education Act.

NCLB has provided a vehicle for States to raise the achievement of all students and to close the achievement gap. We are seeing the results of our combined endeavor; achievement is rising throughout the nation. If you need any additional assistance to implement the standards, assessment, and accountability provisions of NCLB, please do not hesitate to contact Abigail Potts (Abigail.Potts@ed.gov) or David Harmon (David.Harmon@ed.gov).

Sincerely,

Raymond Simon
Deputy Secretary

Enclosure

cc. Governor Tim Kaine
Linda Wallinger
Shelley Loving-Ryder

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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation

AMENDMENT PROPOSALS TO THE VIRGINIA ACCOUNTABILITY PLAN

The following is a summary of Virginia's amendment requests. Please refer to the Department's website www.ed.gov/admins/lcad/account/stateplans03/index.html for the complete Virginia accountability plan.

Acceptable amendments

We have reviewed your request to amend the Virginia accountability plan and find the following amendments aligned with the statute and regulations. These may be included in Virginia's approved accountability plan.

- Calculation of Adequate Yearly Progress (AYP): Virginia will no longer include the scores of students who participate in the Virginia Substitute Evaluation Program (VSEP) in the participation or proficiency calculations for AYP until such time as there are sufficient numbers of students participating in this program to prepare the required technical documentation necessary to meet the NCLB assessment requirements.
- Assessment of Limited English Proficient Students: As a result of Virginia's December 18, 2006, amendment request, Virginia will remove the Stanford English Language Proficiency (SELP) test as a substitute for the reading Standards of Learning for Limited English Proficient (LEP) students at levels 1 and 2 of English language proficiency.
- Other Academic Indicator: Virginia will add science assessments and history/social studies assessments to the list of options available for school divisions to choose as an Other Academic Indicator for elementary and middle schools.

Amendments that are not fully aligned with the regulations and statute

The following amendments do not comply with the statute or regulations. Therefore, they may not be included in Virginia's approved accountability plan.

- Exemption of limited English proficient (LEP) Students for Two Years: Virginia proposed to allow students new to the United States in the past two years to be exempted from the reading/language arts assessment. Under regulations released on September 13, 2006, a State may exempt recently arrived LEP students from one administration of the State's reading/language arts assessment so long as the student takes the English language proficiency test. Virginia's proposal extends this flexibility to two administrations of the reading/language arts assessment, which is beyond the flexibility offered in the regulations.
- Use of the SELP Assessment for LEP students: On January 9, 2006, Virginia requested to continue administering the SELP assessment as a substitute for the reading/language arts assessment for the 2006-07 school year. On June 28, 2006, as a result of the Department's standards and assessment peer review, the Department sent Virginia a letter identifying the areas in which the SELP, an English language proficiency assessment, did not meet NCLB requirements. The SELP assessment lacked comparability in content coverage, rigor, and technical quality to assessments offered to non-LEP students. As a result, by the end of the 2006-07 school year, Virginia must either discontinue using the SELP or revise it to meet the NCLB standards and assessment requirements.

Amendments under further consideration

The Department needs further information from Virginia before it can reach a final decision regarding the proposed amendments below.

- High School Substitute Tests: Virginia proposes to no longer include the scores of students who take certain tests as substitutes for end-of-course Standards of Learning tests. In addition, Virginia proposes to include in the calculation of AYP for 2007-08 Advanced Placement (AP) and International Baccalaureate (IB) scores from the 2006-07 assessment administration. In August 2006, Virginia was granted the flexibility to use AP and IB assessments for a limited number of students as a substitute for the statewide reading and mathematics assessments for the 2005-06 administration used in 2006-07 AYP determinations. However, the Department will need to evaluate additional information on the comparability of Virginia's high school achievement standards and an internal alignment study before extending this flexibility to the 2007-08 AYP determinations (based on 2006-07 assessments).
- Reverse the Order of Public School Choice and Supplemental Educational Services: Virginia proposes to allow schools Statewide to reverse the order of public school choice and supplemental educational services in the first two years of school improvement. The Department has not yet announced the extension of this pilot program to the 2007-08 school year. Additional details, including the requirements for participation in the pilot, will be forthcoming. Please note that a State's standards and assessment system must be approved in order to be eligible to participate in the pilot.
- Assessment of students with disabilities (Exception to the One Percent Cap): Virginia has requested that the cap of 1.0 percent be increased to 1.1 percent on the percentage of students scoring proficient and advanced on the Virginia Alternate Assessment Program (VAAP) that may be included in AYP determinations. Additional data from Virginia are necessary to evaluate this proposal (please refer to <http://www.ed.gov/policy/elsec/guid/altguidance.doc>).
- Interim flexibility for students with disabilities: Virginia proposes to continue to use the "proxy method" (Option 1 in our guidance dated December 2005, <http://www.ed.gov/policy/speced/guid/secletter/051214a.html>) to take advantage of the interim flexibility regarding calculating AYP for the students with disabilities subgroup. Virginia would calculate a proxy to determine the percentage of students with disabilities that is equivalent to 2.0 percent of all students assessed. For the AYP determinations based on assessments administered in 2006-07, this proxy would then be added to the percent of students with disabilities who are proficient. For any school or district that does not make AYP solely due to its students with disabilities subgroup, Virginia would use this adjusted percent proficient to reexamine if the school or district made AYP for the 2006-07 school year. Further information is necessary regarding the extension of this interim flexibility.
- Assessment of LEP Students: Virginia proposes to expand the administration of the Virginia Grade Level Alternate (VGLA) to include LEP students. Thus, LEP students at levels 1 and 2 of English language proficiency would be assessed using the VGLA in reading. The Department must first determine if the VGLA assessments meets the NCLB requirements through the standards and assessment peer review process. The VGLA was peer reviewed the week of January 22-26; we will evaluate the results of that review and provide feedback to Virginia in the near future.